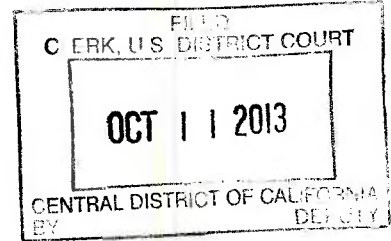


COPY

1 CHRISTOPHER VAN GUNDY (SBN 152359)
cvangundy@roll.com
2 MICHAEL M. VASSEGHI (SBN 210737)
mvasseghi@roll.com
3 ROLL LAW GROUP PC
11444 West Olympic Boulevard
4 Los Angeles, California 90064-1557
Telephone: (310) 966-8400
5 Facsimile: (310) 966-8810



6 Attorneys for
POMWONDERFUL LLC

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 POM WONDERFUL LLC, a Delaware
11 limited liability company,

12 Plaintiff,

13 vs.

14 ROBERT G. HUBBARD d/b/a PUR
BEVERAGES, PORTLAND
15 BOTTLING COMPANY an Oregonian
company, and DOES 1 through 10,
16 inclusive,

17 Defendants.

Case No. CV-13-06917 - PLA

**FIRST AMENDED COMPLAINT
FOR: FEDERAL TRADEMARK
INFRINGEMENT; VIOLATION OF
THE LANHAM ACT § 43(A);
UNFAIR COMPETITION UNDER
CALIFORNIA BUSINESS &
PROFESSIONS CODE § 17200 ET
SEQ.; CALIFORNIA COMMON
LAW UNFAIR COMPETITION.**

DEMAND FOR TRIAL BY JURY

1 Plaintiff POM Wonderful LLC hereby alleges as follows:

2 **PARTIES**

3 1. Plaintiff POM Wonderful LLC (“POM”) is a Delaware limited liability
4 company with its principal place of business located at 11444 West Olympic
5 Boulevard in Los Angeles, California 90064. POM produces, markets, sells and
6 distributes pomegranate and pomegranate based products worldwide in connection
7 with its highly distinctive POM® Brand including, but not limited to, fresh fruit,
8 fresh and freeze dried pomegranate arils (seeds), juices, teas, and dietary
9 supplements.

10 2. POM is informed and thereon believes that Defendant Robert G.
11 Hubbard d/b/a Pur Beverages and Northwest Beverage Distributors (“PUR” or
12 “Defendants”) is located at 10800 Lyndale Avenue South, Suite 324 Bloomington,
13 Minnesota 55420. POM is informed and believes that PUR is involved in the
14 manufacture and sale of an energy drink called “PUR POM”.

15 3. POM is informed and thereon believes that Defendant Portland Bottling
16 Company is located at 1321 NE Couch Street Portland, Oregon 97232. POM is
17 informed and believes that Portland Bottling Company is involved in the
18 manufacture of an energy drink called “PUR POM”.

19 4. POM is not aware of the true names and capacities of the Defendants
20 identified herein as Does 1 through 10, inclusive, and therefore fictitiously names
21 said Defendants. POM will amend this Complaint to allege the true names and
22 capacities of these fictitiously named Defendants when their identities are
23 ascertained.

24 5. POM is informed and believes, and based thereon alleges, that
25 Defendants PUR, Portland Bottling Company and each of the fictitiously named
26 Doe Defendants (collectively, “Defendants”) were in some manner responsible for
27 the acts alleged herein and the harm, losses and damages suffered by POM as
28 alleged hereinafter. POM is also informed and believes, and based thereon alleges,

1 that while participating in such acts, each Defendant was the agent, principal, and/or
 2 alter ego of the other Defendants, and was acting in the course and scope of such
 3 agency and/or acted with the permission, consent, authorization or ratification of the
 4 other Defendants.

5 6. As described further below, POM is informed and believes, and based
 6 thereon alleges, that Defendants conduct business and distribute their products in
 7 California, within this Court's jurisdiction in Southern California and in the greater
 8 Los Angeles area.

9 JURISDICTION AND VENUE

10 7. This action arises, in part, under the Lanham Act, as amended, 15
 11 U.S.C. §§ 1114 and 1125, California Business and Professions Code § 17200 et
 12 seq., and California common law. This Court has subject matter jurisdiction over
 13 this action pursuant to 15 U.S.C. § 1121 (trademark infringement claims under the
 14 Lanham Act); 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (original
 15 jurisdiction of trademark claims and unfair competition claims related to same) and
 16 28 U.S.C. § 1367 (supplemental jurisdiction).

17 8. POM is informed and believes, and based thereon alleges, that venue is
 18 proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1391 (c) because a
 19 substantial part of the events giving rise to the claims occurred in this District.
 20 Additionally, POM is informed and believes, and based thereon alleges, that the
 21 Court has personal jurisdiction over Defendants because Defendants conduct their
 22 ordinary business activities in this District, have focused a portion of their unlawful
 23 conduct in Los Angeles County within this District, have distributed, and sought to
 24 distribute, infringing products in this District, and generally engage in business in
 25 this District and the greater Los Angeles area.

26 FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

27 I. THE POM® BRAND

28 9. POM began producing, selling and marketing its pomegranate products

1 in 2001.

2 10. Since 2001, POM has marketed its products in interstate commerce in
3 connection with a family of highly distinctive trademarks which is comprised of, or
4 includes, the term POM (collectively, the "POM® Brand").

5 11. The POM® Brand has been used in connection with fresh fruit since
6 2001, with beverages since 2002, and with concentrated juice extract and related
7 products since 2009. Attached as Exhibit A are examples of the products POM has
8 sold in connection with its POM® Brand.

9 12. POM has invested millions of dollars in the creation, development,
10 production, marketing and sales of the POM® Brand and its products. The POM®
11 Brand of juice has become the bestselling brand of pomegranate juice in the United
12 States, having sold over 150 million bottles since 2002.

13 13. The POM® Brand is a unique food and beverages brand whose name is
14 associated with integrity, quality, purity of taste and naturalness of its products.

15 **II. THE POM® BRAND INTELLECTUAL PROPERTY**

16 14. POM owns numerous trademark registrations and pending applications
17 in the United States and around the world for the trademarks it uses in connection
18 with the marketing, distribution and sale of its POM® Brand products in interstate
19 commerce. The POM® Brand trademarks are used in connection with various
20 goods including, but not limited to, fresh pomegranate fruit, fresh and freeze-dried
21 arils (pomegranate seeds), pomegranate juice as well as products which contain fruit
22 juice or fruit juice extracts such as teas and dietary supplements.

23 15. POM has numerous trademarks registered with the United States Patent
24 and Trademark Office. The POM registered trademarks include, but are not limited
25 to: POM (Reg. Nos. 2637053); POM & Design (Reg. No. 3047447); POM
26 WONDERFUL (Reg. Nos. 2640835 and 3687491); POM WONDERFUL &
27 Design (Reg. Nos. 2864641, 2780314 and 3687492); POM TEA (Reg. No.
28 3411595); LIGHT POM TEA (Reg. No. 3391707); LIGHT POM TEA & Design

1 (Reg. No. 3411596); POM IN A PILL (Reg. No. 3337435); POM IN A PILL &
2 Design (Reg. No. 3332875); POM POWER (Reg. No. 2944481); POMx (Reg. Nos.
3 3562516 and 3674405); POMx & Design (Reg. No. 3562517 and 3791124); POMx
4 SHOTS (Reg. No. 3667882); POMX SHOTS (Reg. No. 3667882); POWERED BY
5 POMx (Reg. No. 3208934); and POMEGRANATE & Design (Reg. No. 3436526)
6 (collectively, the “POM Marks”).

7 16. POM’s registrations are valid and subsisting, and POM owns all right,
8 title and interest to the POM Marks. Registration Nos. 2637053, 2640835, 2780314,
9 2864641 and 3047447 are incontestable pursuant to 15 U.S.C. Section 1065.
10 Attached hereto as Exhibit B are printouts of the registration certificates for the
11 POM Marks.

12 17. PUR had constructive notice of POM’s rights in its federally registered
13 trademarks under 15 U.S.C. Section 1072, which states: “Registration of a mark on
14 the principal register provided by this Act or under the Act of March 3, 1981, or the
15 Act of February 20, 1905, shall be constructive notice of the registrant’s claim of
16 ownership thereof.” POM’s registered, pending, and common law trademarks
17 constitute a family of marks.

18 18. PUR also had actual notice of POM’s rights when it received POM’s
19 letter to PUR advising it of POM’s rights on May 31, 2013.

20 19. POM has devoted a great deal of time, money and resources to develop
21 and market its products in connection with its POM® Brand. Because of this, there
22 is substantial goodwill associated with the POM Marks and POM® Brand.

23 20. The POM Marks are used uniformly and consistently in every product,
24 advertisement, and promotion in connection with POM® Brand products. POM, its
25 distributors, and its distributors’ customers, both nationally and internationally, have
26 continuously and exclusively used the POM Marks to distinguish themselves as the
27 source of goods and services in connection therewith.

28 21. The POM Marks were custom designed to be distinctive, innovative

1 and recognizable to consumers so that the POM Marks would act as a source-
2 identifier. Because of this, the POM Marks are inherently distinctive. In the
3 alternative, because of POM's exclusive and extensive use, the POM Marks have
4 acquired secondary meaning and distinctiveness, becoming extremely well known to
5 the consuming public as identifying and distinguishing POM exclusively and
6 uniquely as the source of products to which the POM® Brand is applied.

7 22. The POM Marks are widely recognized as a source-identifier for
8 POM® Brand products. POM has built and owns an extremely valuable goodwill
9 which is symbolized by, and associated with its highly distinctive POM® Brand.

10 23. POM products are not sold under the POM® Brand alone. POM not
11 only sells its BRANDED products to the general consuming public, it also sells
12 ingredients such as pomegranate extract, pomegranate juice concentrate and arils to
13 many companies in the food and beverage and dietary supplement industries for
14 inclusion in a variety of products including beverages. In some instances POM also
15 licenses the use of one or more of the POM Marks for use in connection with the
16 sale of products made using POM's high quality ingredients.

17 **III. MARKETING AND PROMOTION OF THE POM® BRAND**

18 24. POM pursues direct marketing efforts to grocery, club, gourmet food,
19 other specialty stores as well as restaurants, and other on-premise locations
20 throughout the world.

21 25. POM also sponsors many events such as the LA Marathon; Nike
22 Women's Marathon; DC Triathlon; the NYC Triathlon; Cart for a Cause (benefiting
23 Meals on Wheels); Best Buddies Challenge (benefiting Best Buddies); GLAAD
24 Media Awards (benefiting Gay and Lesbian Alliance Against Defamation); and the
25 New York City Wine and Food Festival (benefiting Share Our Strength). Attached
26 as Exhibit C are photographs which illustrate some of POM's charitable efforts.

27 26. POM has invested in the POM® Brand, spending millions of dollars
28 worldwide in the marketing, advertising, sales and promotion of the POM® Brand

1 products.

2 27. In late 2010, POM began its first television advertisement campaign for
3 the POM® Brand. POM's television commercials have aired not only in the United
4 States, but also in Canada, France, the United Kingdom and the Netherlands thus
5 far.

6 28. In the United States, POM's television commercials were featured on
7 networks such as ABC, NBC and CBS and aired during a variety of shows such as
8 Grey's Anatomy, Top Chef and 30 Rock.

9 29. POM believes that its success is due to the quality, purity and taste of
10 its products and to the highly distinctive, innovative and recognizable POM Marks.

11 30. The POM® Brand denotes high-quality pomegranate-based products
12 and is a source-identifier of those products.

13 **IV. DEFENDANTS' "PUR POM" ENERGY DRINK PRODUCT**

14 31. Notwithstanding POM's rights in the POM Marks, and with
15 constructive and actual notice of POM's rights, Defendants are intentionally and
16 willfully manufacturing, advertising, distributing, and selling a product that
17 infringes the POM Marks.

18 32. Defendants have manufactured, sold and continue to sell a drink
19 product called "PUR POM" energy drink. Attached as Exhibit D is a photocopy of
20 an image of the PUR POM energy drink product.

21 33. Defendants' PUR POM energy drink product infringes the POM
22 Marks by causing a likelihood of confusion with the POM Marks.

23 34. By copying and using the POM Marks, Defendants are intentionally
24 trading on the substantial goodwill created by POM. Defendants' use of "POM"
25 with the infringing PUR POM energy drink product creates a likelihood of
26 confusion, mistake, and deception as to Defendants' affiliation, connection, and/or
27 association with POM among consumers and the trade.

28 35. POM has never authorized or consented to any such use by Defendants

1 of the POM Marks.

2 36. Defendants' unauthorized actions and blatant use of the POM Marks
3 constitute trademark infringement, false designation of origin and unfair competition
4 under the laws of the United States and the State of California.

5 **V. DEFENDANTS' ACTIONS ARE INTENTIONAL AND WILLFUL**

6 37. POM is informed and believes, and based thereon alleges, that
7 Defendants intentionally designed their PUR POM energy drink product so as to
8 incorporate the inherently distinctive POM Marks.

9 38. POM is also informed and believes, and based thereon alleges, that
10 Defendants use the inherently distinctive POM Marks in commerce to intentionally
11 cause a likelihood of confusion between Defendants' infringing product and POM's
12 product, or to cause mistake, or to deceive the relevant public that Defendants'
13 goods or services are authorized, sponsored or approved by or are affiliated with
14 POM.

15 39. POM is further informed and believes, and based thereon alleges, that
16 by intentionally misappropriating the POM Marks, Defendants are causing customer
17 confusion in the marketplace.

18 40. POM is informed and believes, and based thereon alleges, that
19 Defendants have willfully and knowingly infringed the inherently distinctive POM
20 Marks with knowledge of POM's rights and in an intentional attempt to target
21 consumers who are familiar with the POM® Brand by creating the impression of an
22 association between Defendants and POM or an endorsement by POM of
23 Defendants' goods.

24 41. The natural, probable and foreseeable result of the intentional, willful
25 and wrongful conduct of Defendants has been to deprive POM of business and
26 goodwill, and to injure POM's goodwill, reputation and relationships with existing
27 and prospective customers by infringing the POM Marks, causing customers to
28 associate the POM® Brand with the PUR POM energy drink product.

1 42. POM is further informed and believes, and based thereon alleges, that it
 2 has lost or will lose revenues from the sale of the inherently distinctive POM®
 3 products and potential revenue from licensing and co-branding opportunities and
 4 has sustained and will sustain damages as a result of Defendants' wrongful conduct
 5 in selling, marketing and distributing the infringing PUR POM energy drink
 6 product.

7 43. POM is further informed and believes, and based thereon alleges, that
 8 Defendants have been unjustly enriched by their sale and marketing of the infringing
 9 PUR POM energy drink product.

10 44. Defendants' conduct is the result of willful and wanton disregard of
 11 POM's established and superior rights. Defendants adopted and used, and continue
 12 to use, the POM Marks without authorization and with full knowledge of POM's
 13 superior rights and despite having been put on notice. POM has suffered, and will
 14 continue to suffer, irreparable injury as a result of Defendants' unlawful actions and
 15 has no adequate remedy at law. POM is therefore entitled to injunctive relief.

16 **FIRST CLAIM FOR RELIEF**

17 **(Trademark Infringement Pursuant to 15 U.S.C. § 1114)**

18 45. POM incorporates by reference Paragraphs 1 through 44 above as
 19 though fully set forth herein.

20 46. Defendants' PUR POM drink product infringes the POM Marks
 21 because their use of the POM Marks as part of their product's name, is likely to
 22 cause confusion, mistake, and deception with respect to the POM Marks.

23 47. Defendants' imitation, copying, and unauthorized use in commerce of
 24 POM's federally registered trademarks is likely to cause confusion, mistake, or to
 25 deceive the consuming public and trade by creating the erroneous impression that
 26 Defendants' products have been manufactured, approved, sponsored, endorsed, or
 27 guaranteed by, or are in some way affiliated with POM.

28 48. The imitation, copying, and unauthorized use of the POM Marks causes

1 irreparable injury to POM, including injury to its business reputation and the
2 goodwill associated with the POM Marks.

3 49. By reason of the foregoing, Defendants have infringed POM's
4 trademarks and have violated, and are continuing to violate, 15 U.S.C. Section 1114.

5 50. POM has no adequate remedy at law for these injuries. Moreover,
6 unless Defendants are restrained by this Court from continuing this imitation,
7 copying and unauthorized use of the POM Marks, these injuries will continue to
8 occur. POM is entitled to an injunction restraining Defendants, their officers,
9 agents, distributors and employees, and all persons acting in concert with them,
10 from engaging in such further acts in violation of 15 U.S.C. Section 1116.

11 51. By reason of Defendants' willful acts of trademark infringement, POM
12 is entitled to damages it has sustained and will sustain, and to have those damages
13 trebled pursuant to 15 U.S.C. Section 1117.

14 52. This is an exceptional case making POM eligible for an award of
15 attorneys' fees under 15 U.S.C. Section 1117.

16 53. POM is further entitled to recover from Defendants any gains, profits
17 and advantages unfairly obtained by Defendants as a result of their acts of
18 infringement alleged herein. At present, the amount of any gains, profits and
19 advantages cannot be fully ascertained by POM. POM is unable to ascertain the full
20 extent of the monetary damages suffered by reason of Defendants' acts at this time.

21 **SECOND CLAIM FOR RELIEF**

22 **(Trademark Infringement and False Designation of Origin Pursuant to 15** 23 **U.S.C. § 1125(a))**

24 54. POM incorporates by reference Paragraphs 1 through 53 above as
25 though fully set forth herein.

26 55. Defendants' infringing PUR POM energy drink product infringes the
27 POM Marks, and Defendants are falsely designating the origin of their brand
28 because the use of the POM Marks as part of their product's name is likely to cause

1 confusion, mistake, and deception with respect to the POM Marks.

2 56. Defendants' use of POM as part of its product name has confused and
3 is likely to continue to cause confusion or to cause mistake, or to deceive the
4 consuming public into believing that Defendants' goods or services are authorized,
5 sponsored or approved by or are affiliated with POM.

6 57. These acts constitute trademark infringement of the POM Marks and
7 false designation of origin in violation of 15 U.S.C. Section 1125(a), entitling POM
8 to relief.

9 58. By reason of Defendants' acts, POM is, and will continue to be,
10 irreparably harmed if Defendants' conduct is not enjoined. POM's remedy at law is
11 not adequate to compensate it for the injuries inflicted, and POM is therefore
12 entitled to injunctive relief pursuant to 15 U.S.C. Section 1116.

13 59. The above-described acts of Defendants have irreparably harmed and,
14 if not enjoined, will continue to irreparably harm the general public, which has an
15 interest in being free from confusion, mistake and deception.

16 60. Defendants have unfairly profited from the actions alleged and POM is
17 therefore entitled to recover from Defendants the damages sustained as a result of
18 Defendants' acts in violation of 15 U.S.C. Section 1125(a). At present, POM is
19 unable to ascertain the full extent of the monetary damages suffered by reason of
20 Defendants' acts.

21 61. Further, because of the willful nature of Defendants' acts, POM is
22 entitled to damages and to have those damages trebled pursuant to 15 U.S.C. Section
23 1117.

24 62. This is an exceptional case making POM eligible for an award of
25 attorneys' fees pursuant to 15 U.S.C. Section 1117.

26 //

27 //

28

THIRD CLAIM FOR RELIEF

(Unfair Competition and Unfair Business Practices Pursuant to Cal. Bus. & Prof. Code §§ 17200, 17500 et seq.)

63. POM incorporates by reference Paragraphs 1 through 62 above as though fully set forth herein.

64. Defendants' willful, knowing and unauthorized promotion, advertisement, sale and offering for sale of infringing goods, causing confusion as to the source of the goods and causing harm to POM's goodwill, consist of untrue and misleading statements and constitute an unlawful appropriation of POM's exclusive rights in its POM Marks as outlined herein.

65. Defendants have unlawfully appropriated POM's exclusive rights in its POM Marks, infringing on POM's rights because, like POM's products, Defendants use of the term POM as part of their product name infringes the POM Marks.

66. By selling and offering for sale infringing goods and services, Defendants are in violation of POM's proprietary rights. Their conduct thereby constitutes unlawful, unfair, deceptive and/or fraudulent trade practices and unfair competition in violation of California Business & Professions Code Sections 17200, 17500 et seq. The predicate acts comprising Defendants' unlawful, unfair, deceptive and/or fraudulent trade practices or acts include, but are not limited to, the violations of law more fully set forth herein.

67. As a direct and proximate result of Defendants' wrongful conduct, POM has suffered injury in fact, which losses include damage to POM's goodwill with its existing, former and potential customers and actual confusion between Defendants' infringing products and POM's® Brand of products.

68. These wrongful acts have proximately caused and will continue to cause POM substantial injury, including loss of customers, loss of goodwill, and confusion of existing and potential customers of POM's products. The harm these wrongful acts will cause to POM is both imminent and irreparable, and the amount

1 of damage sustained by POM will be impossible to ascertain if these acts continue.
2 As such, POM has no adequate remedy at law.

3 69. Pursuant to California Business & Professions Code Section 17203,
4 Defendants are required to disgorge and restore to POM all profits and property
5 acquired by means of Defendants' unfair competition with POM.

6 70. Pursuant to California Business & Professions Code Section 17203,
7 POM is also entitled to a preliminary and permanent injunction restraining
8 Defendants, their respective officers, agents, employees, distributors and all persons
9 acting in concert with them, from engaging in further such unlawful conduct.

10 **FOURTH CLAIM FOR RELIEF**

11 **(Violation of California Common Law Unfair Competition)**

12 71. POM incorporates Paragraphs 1 through 70 above as though set forth
13 fully herein.

14 72. As set forth above, Defendants' willful, knowing and unauthorized
15 promotion, advertisement, sale and offering for sale of infringing goods, causing
16 confusion as to the source of the goods and causing harm to POM's goodwill,
17 consist of untrue and misleading statements and constitute an unlawful appropriation
18 of POM's exclusive rights in its POM Marks and constitutes unfair competition
19 under California common law.

20 73. Defendants have unlawfully appropriated POM's exclusive rights in its
21 POM Marks, infringing on POM's rights.

22 74. By reason of Defendants' conduct, POM has sustained and will
23 continue to sustain substantial injury, loss, and damage, as set forth above.

24 75. Further irreparable harm and injury to POM is imminent as a result of
25 Defendants' conduct, and POM is without an adequate remedy at law.

26 76. POM is therefore entitled to an injunction restraining Defendants, their
27 agents, employees, representatives, distributors and all persons acting in concert
28 with them, from engaging in further acts of unfair competition.

1 77. POM is further entitled to recover from Defendants the damages
 2 sustained by POM as a result of Defendants' acts of unfair competition. POM is at
 3 present unable to ascertain the full extent of the monetary damages it has suffered by
 4 reason of Defendants' acts of unfair competition.

5 78. Finally, POM is informed and believes, and based thereon alleges, that
 6 Defendants' conduct has been intentional and willful and in conscious disregard of
 7 POM's rights and, therefore, POM is entitled to exemplary or punitive damages
 8 under California Civil Code Section 3294 in an amount appropriate to punish
 9 Defendants and to make an example of Defendants to the community at large.

10 PRAYER FOR RELIEF

11 WHEREFORE, POM prays for judgment against Defendants as follows:

12 1. That the Court enter judgment against each Defendant that:

13 a. Defendants infringed the rights of POM in their federally
 14 registered trademarks in violation of 15 U.S.C. Section 1114;

15 b. Defendants infringed POM's rights in the POM Marks in
 16 violation of 15 U.S.C. Section 1125;

17 c. Defendants engaged in unfair competition and deceptive acts and
 18 practices in violation of California Business & Professions Code Sections 17200,
 19 17500, et seq.;

20 d. Defendants engaged in unfair competition and deceptive acts and
 21 practices in violation of California common law;

22 e. That the Court enter judgment against each Defendant that the
 23 above acts, 1(a)-(e), were willful and intentional, making this an exceptional case;

24 2. That the Court issue a preliminary and permanent injunction enjoining
 25 and restraining Defendants and their agents, employees, successors, assigns and all
 26 other persons acting in concert or in conspiracy with or affiliated with Defendants
 27 from:

28 a. Engaging in any infringing activity including advertising,

1 promoting, marketing, franchising, distributing, selling, and offering for sale any
2 goods or services in connection with the infringing product identified herein or any
3 product or mark similar to the POM Marks in any media, whether in person, in print
4 or by electronic or digital means including but not limited to newspapers,
5 magazines, bus shelters, billboards as well as via the Internet, including but not
6 limited to, company websites, promotional websites, social media websites,
7 YouTube or other video-related websites, food reviewing websites, blogs, email,
8 SMS and the like; and

9 b. Requiring Defendants to deliver up to POM for destruction any
10 and all packaging, advertising and promotional materials in Defendants' possession,
11 custody or control which contain the infringing products, marks, and/or designs, and
12 any and all infringing products in their possession, custody or control which include
13 the POM Marks.

14 3. That the Court issue an Order at the conclusion of the present matter
15 that all infringing products be recalled, seized, impounded and destroyed.

16 4. That POM be awarded damages for Defendants' trademark
17 infringement, and for unfair competition under California common law.

18 5. That POM be awarded all profits and restitution resulting from
19 Defendants' infringement of POM's rights and by means of Defendants' unfair
20 competition with POM.

21 6. That Defendants be ordered to account for and disgorge to POM all
22 amounts by which Defendants have been unjustly enriched by reason of the
23 unlawful acts complained of.

24 7. That damages resulting from Defendants' infringement under the
25 Lanham Act be trebled due to Defendants' willfulness in accordance with the
26 provisions of 15 U.S.C. Section 1117.

27 8. That POM be awarded exemplary or punitive damages in an amount
28 appropriate to punish Defendants and to make an example of the Defendants to the

1 community.

2 9. That, at POM's election, POM be awarded an amount sufficient to
3 reimburse POM for the costs of corrective advertising.

4 10. For pre-judgment interest on all infringement and other appropriate
5 damages.

6 11. That the Court award POM its reasonable attorneys' fees pursuant to 15
7 U.S.C. § 1117, 17 U.S.C. Section 505, California law, and any other applicable
8 provision of law.

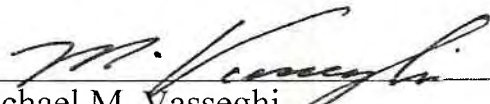
9 12. That the Court award POM its costs of suit incurred herein.

10 13. For such other or further relief as the Court may deem just and proper.

11
12 DATED: October 11, 2013

ROLL LAW GROUP PC

13
14
15 By:


Michael M. Vasseghi
Attorneys for POM WONDERFUL LLC

16
17
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff POM Wonderful LLC hereby demands a jury trial in connection with
20 this action.
21

22 DATED: October 11, 2013

ROLL LAW GROUP PC

23
24
25 By:



Michael M. Vasseghi
Attorneys for POM WONDERFUL LLC

Exhibit A













Exhibit B

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 2,637,053

Registered Oct. 15, 2002

**TRADEMARK
PRINCIPAL REGISTER**

POM

**POM WONDERFUL LLC (DELAWARE LIMITED
LIABILITY COMPANY)**

11444 W. OLYMPIC BLVD.

**LOS ANGELES, CA 90064 BY CHANGE OF NAME
PARAMOUNT JUICE COMPANY LLC (DELA-
WARE LIMITED LIABILITY COMPANY) LOS
ANGELES, CA 90064**

**FOR: FRUIT JUICES, IN CLASS 32 (U.S. CLS. 45, 46
AND 48).**

FIRST USE 4-11-2002; IN COMMERCE 4-11-2002.

SN 76-245,687, FILED 4-24-2001.

CHRISTOPHER LAW, EXAMINING ATTORNEY

Int. Cls.: 31 and 32

Prior U.S. Cls.: 1, 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,047,447

Registered Jan. 24, 2006

**TRADEMARK
PRINCIPAL REGISTER**



**POM WONDERFUL LLC (DELAWARE LTD LIAB
CO)**

11444 WEST OLYMPIC BOULEVARD

10TH FLOOR

LOS ANGELES, CA 90064

**FOR: FRESH FRUITS, IN CLASS 31 (U.S. CLS. 1
AND 46).**

FIRST USE 10-15-2001; IN COMMERCE 10-15-2001.

**FOR: FRUIT JUICES AND FRUIT JUICE CON-
CENTRATES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).**

FIRST USE 9-16-2002; IN COMMERCE 1-13-2003.

**THE MARK CONTAINS THE WORD POM WITH
A HEART DESIGN IN PLACE OF THE LETTER "O".**

SER. NO. 76-553,991, FILED 10-6-2003.

KATHRYN COWARD, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,640,835

Registered Oct. 22, 2002

**TRADEMARK
PRINCIPAL REGISTER**

POM WONDERFUL

**POM WONDERFUL LLC (DELAWARE LIMITED
LIABILITY COMPANY)**

11444 W. OLYMPIC BLVD.

**LOS ANGELES, CA 90064 BY CHANGE OF NAME
PARAMOUNT JUICE COMPANY LLC (DELA-
WARE LIMITED LIABILITY COMPANY) LOS
ANGELES, CA 90064**

**FOR: FRESH FRUITS, IN CLASS 31 (U.S. CLS. 1
AND 46).**

FIRST USE 4-11-2002; IN COMMERCE 4-11-2002.

SN 76-244,362, FILED 4-19-2001,

CHRISTOPHER LAW, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

POM WONDERFUL

Reg. No. 3,687,491 POMWONDERFUL LLC (DELAWARE LIMITED LIABILITY COMPANY)
Registered Sep. 22, 2009 11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

Int. Cls.: 5, 29, 30, and 32 FOR: FOOD, DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, FOR THE TREATMENT OF VIRAL AND INFECTIOUS DISEASES, INCLUDING FOR THE TREATMENT OF CANCER, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

TRADEMARK
PRINCIPAL REGISTER

FIRST USE 5-0-2007; IN COMMERCE 5-0-2007.

FOR: FROZEN FRUITS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 6-0-2006; IN COMMERCE 6-0-2006.

FOR: TOPPING SYRUP; ICED TEA AND TEA-BASED BEVERAGES WITH FRUIT FLAVORING, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-1-2006; IN COMMERCE 3-6-2006.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS USED IN THE PREPARATION OF BEVERAGES; PREPARATIONS FOR MAKING FRUIT DRINKS; FRUIT FLAVORED BEVERAGES; NON-ALCOHOLIC BEVERAGES CONTAINING FRUIT JUICES; SMOOTHIES; BOTTLED WATER; NON-ALCOHOLIC BEVERAGES WITH TEA FLAVOR; LOW CALORIE FRUIT FLAVORED BEVERAGES; LOW CALORIE FRUIT JUICE DRINKS; LOW CALORIE TEA FLAVORED BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-30-2004; IN COMMERCE 6-30-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,637,053, 2,960,193, AND OTHERS.

SN 78-628,764, FILED 5-12-2005.

PAUL E. FAHRENKOPF, EXAMINING ATTORNEY



David J. Kypas
Director of the United States Patent and Trademark Office

Int. Cls.: 31 and 32

Prior U.S. Cls.: 1, 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 2,864,641

Registered July 20, 2004

**TRADEMARK
PRINCIPAL REGISTER**



POM WONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 WEST OLYMPIC BOULEVARD
10TH FLOOR
LOS ANGELES, CA 90064

FOR: FRESH FRUITS, IN CLASS 31 (U.S. CLS. 1
AND 46).

FIRST USE 10-15-2001; IN COMMERCE 10-15-2001.

FOR: FRUIT JUICES AND FRUIT JUICE CON-
CENTRATES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 9-16-2002; IN COMMERCE 1-13-2003.

OWNER OF U.S. REG. NOS. 2,637,053, 2,780,314
AND OTHERS.

THE MARK CONTAINS THE WORDS POM WON-
DERFUL, WITH A HEART DESIGN IN PLACE OF
THE LETTER "O" IN THE WORD "POM".

SER. NO. 76-534,468, FILED 8-4-2003.

BARBARA GAYNOR, EXAMINING ATTORNEY

Int. Cls.: 31 and 32

Prior U.S. Cls.: 1, 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 2,780,314

Registered Nov. 4, 2003

**TRADEMARK
PRINCIPAL REGISTER**



POM WONDERFUL LLC (DELAWARE LIMITED
LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: FRESH FRUITS, IN CLASS 31 (U.S. CLS. 1
AND 46).

FIRST USE 10-15-2001; IN COMMERCE 10-15-2001.

FOR: FRUIT JUICES AND FRUIT JUICE CON-
CENTRATES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 10-15-2001; IN COMMERCE 10-15-2001.

THE MARK CONTAINS THE WORD "POM",
AND THE WORD "WONDERFUL" IN RED, THE
SAME RED SHADE OF WHICH IS ALSO WITHIN
THE HEART OF THE "POM".

SN 76-347,919, FILED 12-11-2001.

MARK T. MULLEN, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

POM WONDERFUL

Reg. No. 3,687,492 POMWONDERFUL LLC (DELAWARE LIMITED LIABILITY COMPANY)
Registered Sep. 22, 2009 11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

Int. Cls.: 5, 29, 30, and 32 FOR: FOOD, DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, FOR THE TREATMENT OF VIRAL AND INFECTIOUS DISEASES, INCLUDING FOR THE TREATMENT OF CANCER, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

**TRADEMARK
PRINCIPAL REGISTER**

FIRST USE 5-0-2007; IN COMMERCE 5-0-2007.

FOR: FROZEN FRUITS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 6-0-2006; IN COMMERCE 6-0-2006.

FOR: TOPPING SYRUP, ICED TEA AND TEA-BASED BEVERAGES WITH FRUIT FLAVORING, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-1-2006; IN COMMERCE 3-6-2006.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS USED IN THE PREPARATION OF BEVERAGES; PREPARATIONS FOR MAKING FRUIT DRINKS; FRUIT FLAVORED BEVERAGES; NON-ALCOHOLIC BEVERAGES CONTAINING FRUIT JUICES; SMOOTHIES; NON-ALCOHOLIC BEVERAGES WITH TEA FLAVOR; LOW CALORIE FRUIT FLAVORED BEVERAGES; LOW CALORIE FRUIT JUICE DRINKS; LOW CALORIE TEA FLAVORED BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-30-2004; IN COMMERCE 6-30-2004.

OWNER OF U.S. REG. NOS. 2,637,053, 2,960,193, AND OTHERS.

THE MARK CONSISTS OF THE WORDS "POM WONDERFUL", WITH A HEART DESIGN IN PLACE OF THE LETTER "O" IN THE WORD "POM".



David J. Kappas

Director of the United States Patent and Trademark Office

Reg. No. 3,687,492 SN 78-628,813, FILED 5-12-2005.

PAUL E. FAHRENKOPF, EXAMINING ATTORNEY

Int. Cls.: 30 and 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,411,595

Registered Apr. 15, 2008

**TRADEMARK
PRINCIPAL REGISTER**

POM TEA

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: ICED TEAS AND TEA-BASED BEVERAGES
WITH POMEGRANATE FLAVORING, IN CLASS 30
(U.S. CL. 46).

FIRST USE 2-1-2006; IN COMMERCE 3-6-2006.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS
USED IN THE PREPARATION OF BEVERAGES,
PREPARATIONS FOR MAKING FRUIT DRINKS,
FRUIT FLAVORED BEVERAGES, NON-ALCOHOL-
IC BEVERAGES CONTAINING FRUIT JUICES,
NON-ALCOHOLIC BEVERAGES WITH TEA FLA-
VOR, LOW CALORIE FRUIT FLAVORED BEVERA-
GES, LOW CALORIE TEA FLAVORED
BEVERAGES, ALL MADE IN WHOLE OR SIGNIFI-

CANT PART OF POMEGRANATE JUICE, IN CLASS
32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 2-1-2006; IN COMMERCE 3-6-2006.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,637,053, 3,047,447
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "TEA", APART FROM THE MARK
AS SHOWN.

SER. NO. 77-249,106, FILED 8-7-2007.

BRIAN CALLAGHAN, EXAMINING ATTORNEY

Int. Cls.: 30 and 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,391,707

Registered Mar. 4, 2008

**TRADEMARK
PRINCIPAL REGISTER**

LIGHT POM TEA

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: ICED TEAS AND TEA-BASED BEVERAGES
WITH POMEGRANATE FLAVORING, IN CLASS 30
(U.S. CL. 46).

FIRST USE 6-25-2007; IN COMMERCE 6-25-2007.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS
USED IN THE PREPARATION OF BEVERAGES,
PREPARATIONS FOR MAKING FRUIT DRINKS,
FRUIT FLAVORED BEVERAGES, NON-ALCOHOL-
IC BEVERAGES CONTAINING FRUIT JUICES,
NON-ALCOHOLIC BEVERAGES WITH TEA FLA-
VOR, LOW CALORIE FRUIT FLAVORED BEVERA-
GES, LOW CALORIE TEA FLAVORED
BEVERAGES, ALL MADE IN WHOLE OR SIGNIFI-

CANT PART OF POMEGRANATE JUICE, IN CLASS
32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-25-2007; IN COMMERCE 6-25-2007.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,637,053, 3,047,447
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIGHT" OR "TEA", APART FROM
THE MARK AS SHOWN.

SER. NO. 77-249,295, FILED 8-7-2007.

BRIAN CALLAGHAN, EXAMINING ATTORNEY

Int. Cls.: 30 and 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,411,596

Registered Apr. 15, 2008

**TRADEMARK
PRINCIPAL REGISTER**



POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: ICED TEAS AND TEA-BASED BEVERAGES
WITH POMEGRANATE FLAVORING, IN CLASS 30
(U.S. CL. 46).

FIRST USE 6-25-2007; IN COMMERCE 6-25-2007.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS
USED IN THE PREPARATION OF BEVERAGES,
PREPARATIONS FOR MAKING FRUIT DRINKS,
FRUIT FLAVORED BEVERAGES, NON-ALCOHOL-
IC BEVERAGES CONTAINING FRUIT JUICES,
NON-ALCOHOLIC BEVERAGES WITH TEA FLA-
VOR, LOW CALORIE FRUIT FLAVORED BEVERA-

GES, LOW CALORIE TEA FLAVORED
BEVERAGES, ALL MADE IN WHOLE OR SIGNIFI-
CANT PART OF POMEGRANATE JUICE, IN CLASS
32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-25-2007; IN COMMERCE 6-25-2007.

OWNER OF U.S. REG. NOS. 2,637,053, 3,047,447
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "LIGHT" OR "TEA", APART FROM
THE MARK AS SHOWN.

SER. NO. 77-249,299, FILED 8-7-2007.

BRIAN CALLAGHAN, EXAMINING ATTORNEY

Int. Cls.: 1 and 5

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,337,435

Registered Nov. 13, 2007

**TRADEMARK
PRINCIPAL REGISTER**

POM IN A PILL

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF PHARMACEUTICAL PRODUCTS AND PREPARATIONS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: FOOD, DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONAL ADDITIVES FOR USE IN FOODS, INCLUDING ANTIOXIDANT ADDI-

TIVES AND ADDITIVES DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, FOR THE TREATMENT OF VIRAL AND INFECTIOUS DISEASES, INCLUDING FOR THE TREATMENT OF CANCER, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-961,648, FILED 8-28-2006.

JAMES MACFARLANE, EXAMINING ATTORNEY

Int. Cls.: 1 and 5

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,332,875

Registered Nov. 6, 2007

**TRADEMARK
PRINCIPAL REGISTER**

POM IN A PILL

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF PHARMACEUTICAL PRODUCTS AND PREPARATIONS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: FOOD, DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONAL ADDITIVES FOR USE IN FOODS, INCLUDING ANTIOXIDANT ADDI-

TIVES AND ADDITIVES DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, FOR THE TREATMENT OF VIRAL AND INFECTIOUS DISEASES, INCLUDING FOR THE TREATMENT OF CANCER, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

THE MARK CONSISTS OF THE WORD POM WITH A HEART DESIGN IN PLACE OF THE LETTER O.

SN 78-969,991, FILED 9-8-2006.

JENNY PARK, EXAMINING ATTORNEY

Int. Cl.: 32

Prior U.S. Cls.: 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 2,944,481

Registered Apr. 26, 2005

**TRADEMARK
PRINCIPAL REGISTER**

POM POWER

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 WEST OLYMPIC BOULEVARD
10TH FLOOR
LOS ANGELES, CA 90064

OWNER OF U.S. REG. NOS. 2,637,053, 2,644,365,
AND OTHERS.

SN 76-486,863, FILED 2-3-2003.

FOR: FRUIT SMOOTHIES, IN CLASS 32 (U.S. CLS.
45, 46 AND 48).

FIRST USE 2-10-2003; IN COMMERCE 5-3-2003.

TRACY WHITAKER-BOWN, EXAMINING ATTOR-
NEY

Int. Cls.: 5 and 29

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,674,405

Registered Aug. 25, 2009

**TRADEMARK
PRINCIPAL REGISTER**

POMx

POMWONDERFUL LLC (DELAWARE LIMITED
LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: NUTRITION BARS FOR USE AS A FUNCTIONAL FOOD DESIGNED TO PROVIDE SPECIFIC HEALTH BENEFITS, NAMELY, NUTRITION BARS FOR USE AS A MEAL REPLACEMENT AND NUTRITION BARS FOR USE AS A DIETARY SUPPLEMENT, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 4-27-2009; IN COMMERCE 4-27-2009.

FOR: NUTRITION BARS FOR USE AS A FUNCTIONAL FOOD DESIGNED TO PROVIDE SPECIFIC

HEALTH BENEFITS, NAMELY, NUTRITIONAL FRUIT AND NUT BASED ENERGY AND SNACK FOOD BARS; FRUIT AND NUT BASED SNACK BARS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-27-2009; IN COMMERCE 4-27-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-611,932, FILED 11-11-2008.

JANICE KIM, EXAMINING ATTORNEY

Int. Cls.: 1, 5, 30, and 32

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 45, 46, 48, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,562,517

Registered Jan. 13, 2009

**TRADEMARK
PRINCIPAL REGISTER**



**POMWONDERFUL LLC (DELAWARE LIMITED LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064**

FOR: BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF PHARMACEUTICAL PRODUCTS AND PREPARATIONS; BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF COSMETIC AND SKIN CARE PRODUCTS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: FOOD, DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONAL ADDITIVES FOR USE IN FOODS, INCLUDING ANTIOXIDANT ADDITIVES AND ADDITIVES DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONALLY FORTIFIED BEVERAGES; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONALLY ENHANCED WATER; VITAMIN ENHANCED WATER, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: POMEGRANATE EXTRACTS FOR USE AS AN INGREDIENT IN FOOD PRODUCTS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS USED IN THE PREPARATION OF BEVERAGES; POMEGRANATE EXTRACTS FOR USE AS AN INGREDIENT IN BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-6-2006; IN COMMERCE 3-6-2006.

OWNER OF U.S. REG. NOS. 2,637,053, 2,960,193, AND OTHERS.

THE MARK CONSISTS OF THE WORD "POMX", WITH A HEART DESIGN IN PLACE OF THE LETTER "O" IN THE WORD "POM" AND WITH A SUBSCRIPT LETTER "X" CONNECTED TO THE LETTER "M" IN THE WORD "POM".

SN 78-664,836, FILED 7-6-2005.

PAUL E. FAHRENKOPF, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

POM_x

Reg. No. 3,791,124

Registered May 18, 2010

Int. Cls.: 5 and 29

TRADEMARK

PRINCIPAL REGISTER

POMWONDERFUL LLC (DELAWARE LIMITED LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: NUTRITION BARS FOR USE AS A FUNCTIONAL FOOD DESIGNED TO PROVIDE SPECIFIC HEALTH BENEFITS, NAMELY, NUTRITION BARS FOR USE AS A MEAL REPLACEMENT AND NUTRITION BARS FOR USE AS A DIETARY SUPPLEMENT, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 4-27-2009; IN COMMERCE 4-27-2009.

FOR: NUTRITION BARS FOR USE AS A FUNCTIONAL FOOD DESIGNED TO PROVIDE SPECIFIC HEALTH BENEFITS, NAMELY, NUTRITIONAL FRUIT AND NUT BASED ENERGY AND SNACK FOOD BARS; FRUIT AND NUT BASED SNACK BARS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-27-2009; IN COMMERCE 4-27-2009.

OWNER OF U.S. REG. NOS. 3,047,447, 3,562,517, AND OTHERS.

THE MARK CONSISTS OF THE WORD "POMX", WITH A HEART DESIGN IN PLACE OF THE LETTER "O" IN THE WORD "POM" AND WITH A SUBSCRIPT LETTER "X" CONNECTED TO THE LETTER "M" IN THE WORD "POM".

SN 77-674,156, FILED 2-19-2009.

TOBY BULLOFF, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,667,882

Registered Aug. 11, 2009

**TRADEMARK
PRINCIPAL REGISTER**

POM_x SHOTS

POMWONDERFUL LLC (DELAWARE LIMITED
LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: NUTRACEUTICALS, NAMELY, NUTRA-
CEUTICALS BEVERAGES FOR USE AS A DIETARY
SUPPLEMENT; NUTRITIONALLY FORTIFIED
BEVERAGES; NUTRITIONALLY FORTIFIED WA-
TER; VITAMIN ENRICHED WATER, IN CLASS 5
(U.S. CLS. 6, 18, 44, 46, 51 AND 52).

OWNER OF U.S. REG. NOS. 2,637,053 AND
2,960,193.

SN 78-780,508, FILED 12-23-2005.

FIRST USE 4-27-2009; IN COMMERCE 4-27-2009.

GEOFFREY FOSDICK, EXAMINING ATTORNEY

Int. Cls.: 30 and 32

Prior U.S. Cls.: 45, 46 and 48

United States Patent and Trademark Office

Reg. No. 3,208,934

Registered Feb. 13, 2007

**TRADEMARK
PRINCIPAL REGISTER**

POWERED BY POM_x

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: TEA; PREPARED READY-TO-DRINK TEA;
TEA-BASED PREPARATION FOR MAKING BEV-
ERAGES; ICED TEA; TEA-BASED BEVERAGES
WITH FRUIT FLAVORING; FRUIT TEA AND BEV-
ERAGES MADE OF TEA, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-31-2006; IN COMMERCE 3-31-2006.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS
USED IN THE PREPARATION OF BEVERAGES;
PREPARATIONS FOR MAKING FRUIT DRINKS;
FRUIT FLAVORED BEVERAGES; NON-ALCOHOL-
IC BEVERAGES CONTAINING FRUIT JUICES;
SMOOTHIES; BOTTLED DRINKING WATER;

NON-ALCOHOLIC BEVERAGES WITH TEA FLA-
VOR; LOW CALORIE FRUIT FLAVORED BEVERA-
GES; LOW CALORIE FRUIT JUICE DRINKS;
SPORTS DRINKS; ENERGY DRINKS; LOW CAL-
ORIE NON-ALCOHOLIC BEVERAGES WITH TEA
FLAVOR, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-31-2006; IN COMMERCE 3-31-2006.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-867,070, FILED 4-21-2006.

BARBARA A. LOUGHRAN, EXAMINING ATTOR-
NEY

Int. Cls.: 31 and 32

Prior U.S. Cls.: 1, 45, 46, and 48

United States Patent and Trademark Office

Reg. No. 3,436,526

Registered May 27, 2008

**TRADEMARK
PRINCIPAL REGISTER**

Pomegranate

POMWONDERFUL LLC (DELAWARE LTD LIAB
CO)
11444 WEST OLYMPIC BOULEVARD
10TH FLOOR
LOS ANGELES, CA 90064

FOR: FRESH FRUITS, IN CLASS 31 (U.S. CLS. 1
AND 46).

FIRST USE 10-0-2002; IN COMMERCE 10-0-2002.

FOR: FRUIT JUICES AND FRUIT JUICE CON-
CENTRATES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 11-0-2003; IN COMMERCE 11-0-2003.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "POMEGRANATE", APART FROM
THE MARK AS SHOWN.

THE MARK CONTAINS A HEART DESIGN IN
PLACE OF THE LETTER "O" IN THE WORD
"POMEGRANATE".

SN 76-556,753, FILED 10-22-2003.

HOWARD B. LEVINE, EXAMINING ATTORNEY

Int. Cls.: 1, 5, 30, and 32

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 45, 46, 48, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,562,516

Registered Jan. 13, 2009

**TRADEMARK
PRINCIPAL REGISTER**

POMx

POMWONDERFUL LLC (DELAWARE LIMITED LIABILITY COMPANY)
11444 W. OLYMPIC BLVD., 10TH FLOOR
LOS ANGELES, CA 90064

FOR: BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF PHARMACEUTICAL PRODUCTS AND PREPARATIONS; BOTANICAL EXTRACTS, INCLUDING POMEGRANATE EXTRACTS, FOR USE IN THE PREPARATION OF COSMETIC AND SKIN CARE PRODUCTS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: DIETARY AND NUTRITIONAL SUPPLEMENTS, INCLUDING ANTIOXIDANT SUPPLEMENTS AND SUPPLEMENTS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRACEUTICALS FOR USE AS A DIETARY SUPPLEMENT, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; NUTRITIONAL ADDITIVES FOR USE IN FOODS, INCLUDING ANTIOXIDANT ADDITIVES AND ADDITIVES DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT EXTRACTS, INCLUDING POWDERS, LIQUIDS, CAPSULES, AND PILLS; ANTI-CANCER PREPARATIONS; PHARMACEUTICAL PRODUCTS AND PREPARATIONS, INCLUDING PREPARATIONS DERIVED FROM AND CONTAINING POMEGRANATE EXTRACTS AND PLANT

EXTRACTS, FOR THE TREATMENT OF VIRAL AND INFECTIOUS DISEASES, INCLUDING FOR THE TREATMENT OF CANCER; NUTRITIONALLY FORTIFIED BEVERAGES, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: POMEGRANATE EXTRACTS FOR USE AS AN INGREDIENT IN FOOD PRODUCTS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 5-7-2007; IN COMMERCE 5-7-2007.

FOR: NON-ALCOHOLIC FRUIT EXTRACTS USED IN THE PREPARATION OF BEVERAGES; POMEGRANATE EXTRACTS FOR USE AS AN INGREDIENT IN BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-6-2006; IN COMMERCE 3-6-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,637,053, 2,960,193, AND OTHERS.

SN 78-664,816, FILED 7-6-2005.

PAUL E. FAHRENKOPF, EXAMINING ATTORNEY

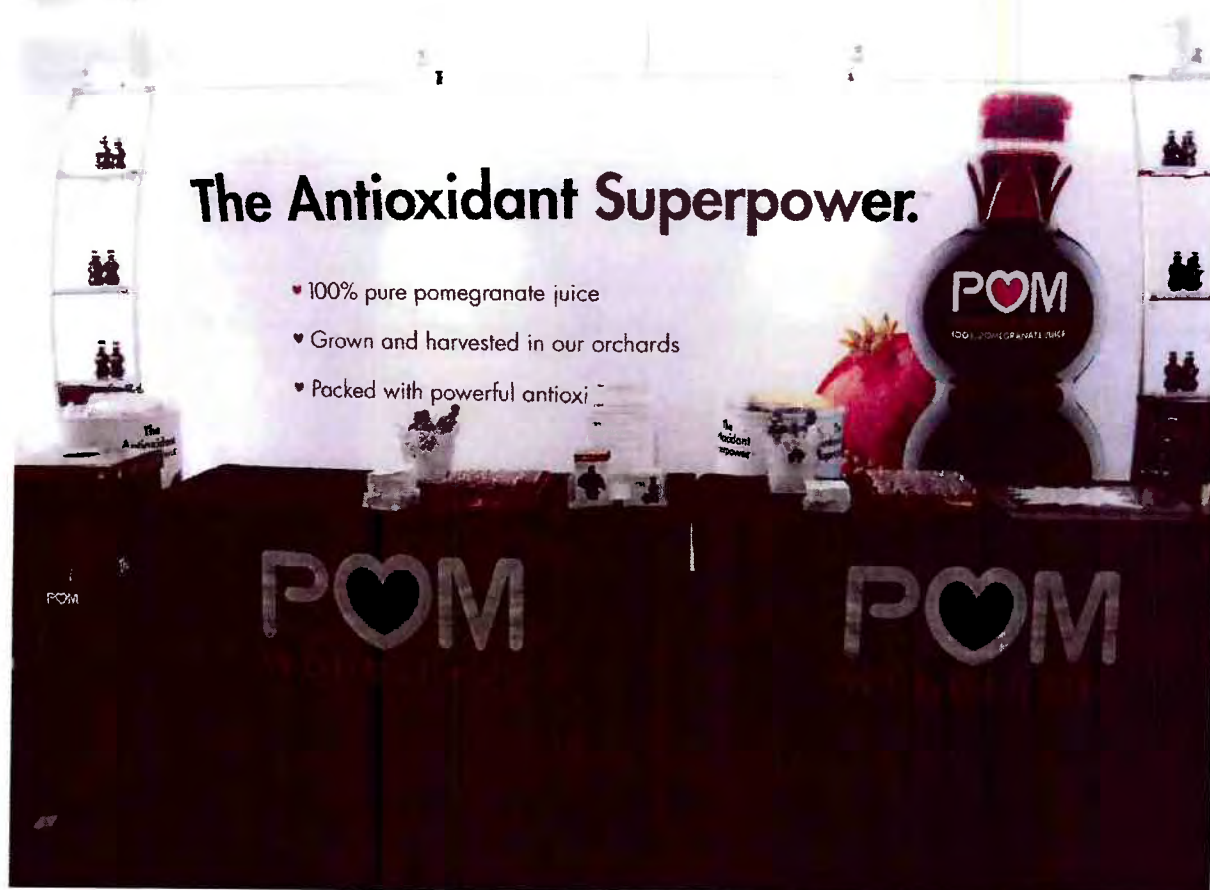
Exhibit C





















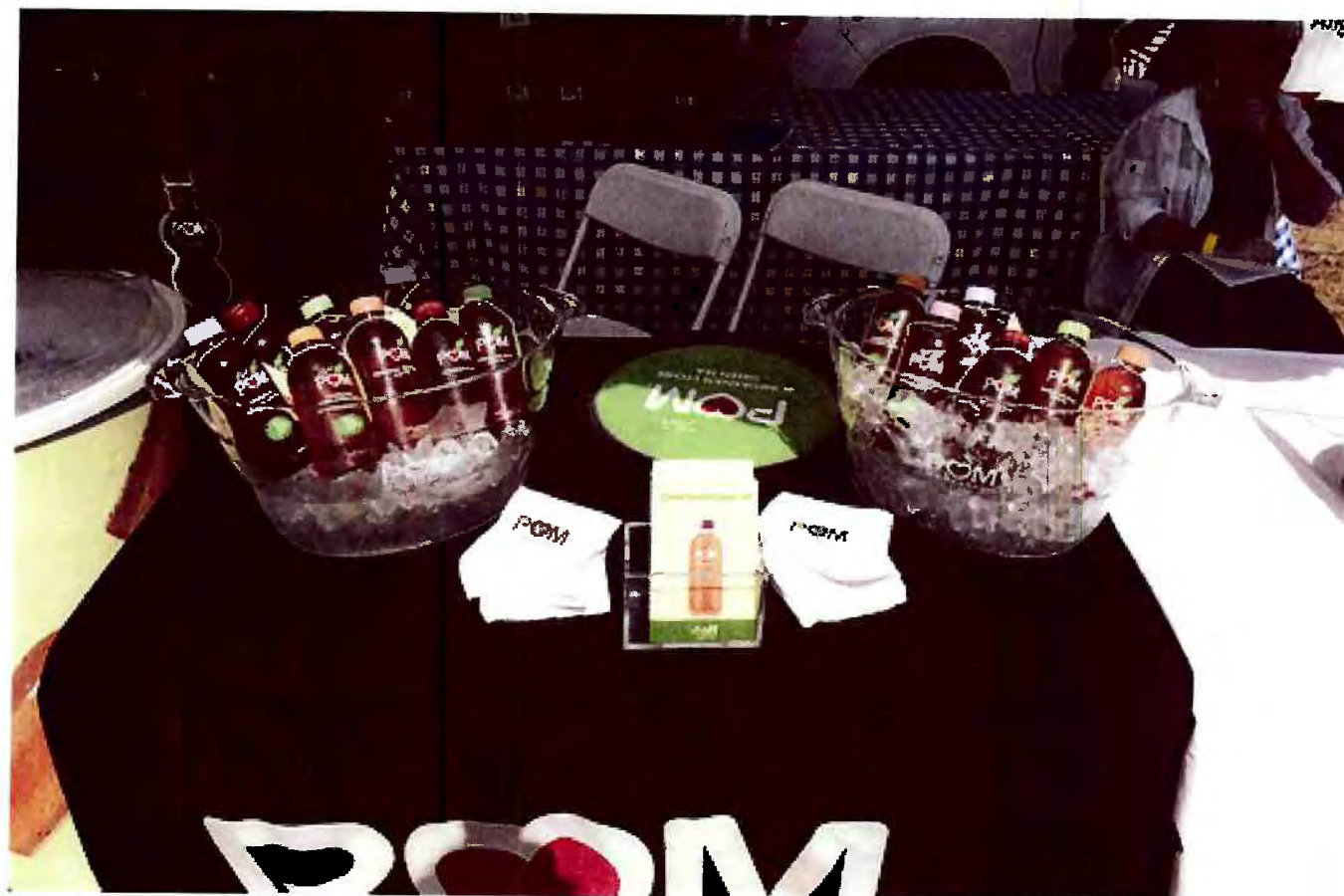






Exhibit D



Webpage Screenshot

pūr BEVERAGES LIVE PURE • THINK PURE • DRINK pūr

HOME DRINK PUR ▾ LIVE PUR ▾ CONTACT PUR ▾

pōm pomegranate

Pur Pom is a great tasting Pomegranate drink that refreshes and energizes your body with only the finest of nature's ingredients including vitamins, fruits and a unique proprietary blend of all natural supplements designed to power and heal your body. This delicious Pomegranate beverage will give you a boost of natural energy without the chemicals you will find in other energy drinks.

- 🔥 Pur Pom is rich in B-Vitamins for energy with no caffeine or any other harmful additives
- 🔥 Low calorie, low sugar beverage with no preservatives to leave your mind feeling as good as your body!
- 🔥 Pure Cane Sugar offers a healthy, natural boost of energy without the negative effects of processed sugar
- 🔥 Natural healing and revitalization from Pomegranate, Acai Berry, Blueberry and purified water

pōm → SUPERCHARGED WITH GINSENG ROOT EXTRACT

pūr BEVERAGES Pur Beverages are the most amazing line of beverages on the market today. Pur Beverages are designed using key vitamins and minerals, fruit botanicals and other natural supplements, that support the body by providing energy and nutrients not typically found in beverages. Drinking these delicious beverages will help you feel vibrant and increase overall energy levels, the healthy way!

Key Ingredients

- + B Vitamins
- + Ginseng
- + Cane Sugar
- + Pure Water
- + Pomegranate

The naturally abundant polyphenols in pomegranate juice have long been known as a "miracle" antioxidant that can help prevent heart disease, viral infections and even the common cold.

More Pur...

Renew acai berry energy drink

Rōz Natural Weight Loss

Site designed by Flathead Media • ©2013 Pur Beverages INC. • Distributor Login

Pg. 62